

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Tony L. Hammond; and
Nanci E. Langley

Valley Falls Station
Cumberland, Rhode Island 02864

Docket No. A2011-18

ORDER AFFIRMING DETERMINATION

(Issued September 20, 2011)

I. INTRODUCTION

On May 23, 2011, Derrick Watson on behalf of the Concerned Citizens of Valley Falls—Save Our Post Office (Petitioner), filed an appeal with the Commission seeking review of the Postal Service's determination to close the Valley Falls station in Cumberland, Rhode Island.¹ After reviewing the record in this proceeding, the Commission affirms the Final Determination to close the Valley Falls station.

¹ Petition for Review received from Derrick Watson on behalf of the Concerned Citizens of Valley Falls—Save Our Post Office SOPO, May 23, 2011 (Petition). The Petition included the following: Public Notice to Postal Customers of Closure dated May 6, 2011 (Attachment 1); Notice of Community Meeting (Attachment 2); correspondence with the Postal Service dated March 31, 2011 (Attachment 3); a petition in support of keeping the Cumberland Broad Street Post Office [Valley Falls station] Open, 420 signatures (Attachment 4); notice to post office box customers of change in service dated May 5, 2011 (Attachment 5); correspondence with the Postal Service dated May 5, 2011 (Attachment 6); correspondence with the Postal Service dated May 19, 2011 (Attachment 7); and the lease agreement for the Valley Falls station (Attachment 8).

II. PROCEDURAL HISTORY

In Order No. 737, the Commission established Docket No. A2011-18 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any pleadings responsive to the appeal.²

On June 7, 2011, the Postal Service filed a notice in support of its decision to close the Valley Falls station.³ The notice, in part, challenges the Commission's subject matter jurisdiction to hear this appeal, and indicates that an Administrative Record complying with standards applicable to post office closings for the Valley Falls station is not required.⁴

On June 8, 2011, Petitioner submitted a petition signed by 34 individuals and comments from 140 individuals opposing the closure.⁵

On June 20, 2011, Daniel J. McKee, Mayor of Cumberland, Rhode Island, filed an application for suspension of the determination pending review of the appeal.⁶ The Postal Service filed an opposition to the application for suspension on June 30, 2011.⁷ In Order No. 756, the Commission denied the application for suspension.⁸

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, May 25, 2011 (Order No. 737).

³ Notice of United States Postal Service, June 7, 2011 (Notice). The Notice includes three exhibits: Exhibit 1, Final Determination to Close the Valley Falls, RI Classified Station Continue [and] to Provide P.O. Box and Retail Service Through the Cumberland, RI Classified Station (Final Determination); Exhibit 2 identifies 14 Postal Service retail facilities near the Valley Falls station; and Exhibit 3 identifies 20 alternate locations to buy stamps.

⁴ The Commission has repeatedly rejected the Postal Service's jurisdictional arguments based on the Postal Service's internal categorization of its retail facilities. See e.g. Docket No. A2010-3, Order No. 477, Order Dismissing Appeal (East Elko), June 22, 2010, at 5-6.

⁵ Petition and Comments from Concerned Citizens of Valley Falls, RI, June 8, 2011.

⁶ Application for Suspension of Determination from Daniel J. McKee, Mayor of Cumberland, Rhode Island, June 20, 2011.

⁷ Response of United States Postal Service to Mayor Daniel J. McKee's Application for Suspension of Discontinuance for the Valley Falls Station, Cumberland, RI 02864, June 30, 2011.

⁸ Order Denying Application for Suspension, July 8, 2011 (Order No. 756).

On June 27, 2011, Petitioner filed a Participant Statement expanding his arguments against the closure.⁹ Petitioner also filed supplemental material, a newspaper article, which he contends demonstrates that the Postal Service misled customers about the closing of the Valley Falls station.¹⁰

The Commission issued an information request asking the Postal Service to provide the Administrative Record supporting its Final Determination to close the Valley Falls station.¹¹ On July 15, 2011, the Postal Service filed the Administrative Record with the Commission.¹²

On July 18, 2011, the Postal Service filed comments in support of its determination to close the Valley Falls station.¹³

Three motions were filed in this proceeding. David B. Popkin (Popkin) moved to make public the number of post office box customers being served by the Valley Falls station.¹⁴ Petitioner filed in support of this motion.¹⁵ Popkin's motion was granted in Order No. 783.¹⁶ The Postal Service subsequently provided the unredacted copies of the Administrative Record showing the number of post office box customers being served by the Valley Falls station.¹⁷

Popkin filed a second motion on what appears to be the same topic.¹⁸ The Postal Service filed in opposition as to the second motion stating, in part, that it had

⁹ Participant Statement received from Derrick Watson, June 27, 2011 (Participant Statement).

¹⁰ Supplemental Comments of Derrick Watson, June 30, 2011 (Supplemental Comments).

¹¹ Commission Information Request No. 1, July 8, 2011.

¹² See United States Postal Service Notice of Filing and Application for Non-Public Status, July 15, 2011, which included a redacted copy of the Administrative Record. An unredacted copy was filed under seal. The Administrative Record is cited herein as Administrative Record.

¹³ Comments of United States Postal Service, July 18, 2011 (Postal Service Comments).

¹⁴ Motion of David B. Popkin, July 18, 2011.

¹⁵ Support of Motion By: David B. Popkin, July 19, 2011.

¹⁶ Order Granting Motions, July 29, 2011 (Order No. 783).

¹⁷ United States Postal Service Response to Order No. 783, August 2, 2011.

¹⁸ Motion of David B. Popkin, August 3, 2011.

complied with the directives of the Commission provided in Order No. 783.¹⁹ The Commission finds that no further action is warranted at this time on this matter.

A third motion was filed by Petitioner, requesting an extension of time for the filing of reply briefs.²⁰ The Public Representative filed in support of this motion.²¹ The motion was granted in Order No. 783.

On August 12, 2011, Petitioner and the Public Representative filed reply briefs.²² Petitioner also filed comments concerning the nearby Diamond Hill post office that serves as an alternative to the Valley Falls station.²³ Additional comments were received from members of the Valley Falls community.²⁴

III. BACKGROUND

The Valley Falls station is located in Cumberland, Rhode Island. Final Determination at 3. It provides window service 33 hours a week from 9:00 a.m. to 12:00 p.m. and from 2:00 p.m. to 5:00 p.m. Monday through Friday, and 9:00 a.m. through 12:00 p.m. on Saturday. *Id.* at 1. In addition to providing retail services, e.g., sale of stamps, stamped paper, and money orders, it provides service to 150 post office box customers. *Id.*

The Postal Service has determined to close the Valley Falls station. Post office box customers will be provided the option of obtaining Post Office Box service at the Cumberland station located 3.1 miles away. *Id.* Post office box customers will be able

¹⁹ Response of United States Postal Service to Motion of David B. Popkin of August 3, 2011, August 9, 2011.

²⁰ Motion for Extension for Filing Reply Brief, July 26, 2011.

²¹ Answer of the Public Representative in Support of Petitioner's Motion to Extend the Deadline for Filing its Reply Brief, July 27, 2011.

²² Petitioner Reply Brief to USPS AR on Appeal of Closing of Valley Falls Post Office 02864, August 12, 2011; Reply Brief of the Public Representative, August 12, 2011 (PR Reply Brief).

²³ Inefficiency of Parcel Post Delivery at Diamond Hill Post Office Cumberland RI 02864, August 8, 2011.

²⁴ Letter from Michael D. Vinal, June 27, 2011 (Vinal Letter); Comments of Patricia Chaston, June 29, 2011.

to maintain their current mailing address. Administrative Record, Item No. 16 at 1. For customers currently receiving delivery by letter carrier, there will be no change in service. *Id.*

The Postal Service states that retail transactions at the Valley Falls station have declined by approximately 4.1 percent from FY 2008, while revenue has declined by approximately 9.5 percent for the same period. Final Determination at 1. Receipts for the Valley Falls station decreased from \$199,939 in FY 2007 to \$183,133 in FY 2009. *Id.*

The Postal Service indicates that effective and regular service will continue to be provided through city delivery service and retail service provided by the Cumberland station. Window service hours at the Cumberland station are from 8:30 a.m. to 5:30 p.m., Monday through Friday and 9:00 a.m. through 1:00 p.m. on Saturday. *Id.*

On September 21, 2009, the Postal Service distributed questionnaires regarding the possible change in service at the Valley Falls station to post office box customers. Additional questionnaires were made available over-the-counter to walk-in customers. A total of 178 questionnaires were distributed and 79 were returned. Administrative Record, Item No. 18.

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner addresses the Postal Service's jurisdictional argument that the Valley Falls station is not a post office. He observes that insignia and signage located inside and outside the facility read "United States Post Office" indicating that the Valley Falls station is indeed a post office. He further contends that Valley Falls has historically been served by a post office since approximately 1890. Participant Statement at 2-4.

Petitioner believes that the Postal Service's jurisdictional argument, based upon Valley Falls station customers not losing total access to postal services, is an inappropriate litmus test in this instance. *Id.* at 4-5. He further counters Postal Service statements that alternative postal facilities are in close proximity to the Valley Falls

station essentially by contending that “close proximity” is a relative term, *i.e.*, what is “close by” in some standards might not be “close by” in other standards. *Id.* at 5-6.

Petitioner argues that the procedures for closing the Valley Falls station were not sufficient. Petitioner asserts that the information obtained by questionnaires distributed to customers is stale (the survey occurred in September 2009), inconclusive, and fails to represent the complete or current concerns of the community. *Id.* at 6. He contends that the Postal Service has not considered the needs or the culture of the community. *Id.* at 8-11. He further contends that the decision to close the Valley Falls station was made prior to the community meeting. *Id.* at 11-12. Petitioner adds that a Postal Service representative did not accurately represent the potential cost savings from the closing. *Id.* at 11-13. Finally, Petitioner contends that the Postal Service never informed residents that the determination could be appealed to the Commission. *Id.* at 15-16.

Public Representative. The Public Representative concludes that the Final Determination is seriously flawed, urging the Commission to remand the matter to the Postal Service for further consideration. PR Reply Brief at 11.

The Public Representative addresses the Postal Service's jurisdictional arguments and concludes that the Commission has jurisdiction over this matter. *Id.* at 6-7.

Citing issues raised by Petitioner, *e.g.*, staleness of the data and timing of the public meeting, the Public Representative argues that procedures followed by the Postal Service were deficient and did not serve the interests of the community. *Id.* at 7-8.

The Public Representative contends that the estimated savings from the closure of the Valley Falls station appear to be overstated. *Id.* at 8-9. He explains that half of the projected savings are attributable to salary and related benefits of an employee who is being reassigned to another local facility. *Id.* at 9. He questions the amount of savings in light of a reported buyout payment of \$93,103. *Id.* at 10-11. In sum, the Public Representative concludes that the decision to close the Valley Falls station has not been adequately justified.

Postal Service. The Postal Service contends that this appeal should be dismissed. Postal Service Comments at 8. The Postal Service maintains its position that section 404(d) review does not apply to closing the Valley Falls station. The Postal Service explains that section 404(d) does not apply to retail locations such as stations or branches which are subordinate to a post office. *Id.* at 1.

The Postal Service argues that even if the requirements of section 404(d) were applied in the context of the discontinuance of the Valley Falls station, it has satisfied the salient statutory provisions. *Id.* at 3. On September 21, 2009, the Postal Service distributed questionnaires to customers notifying them of the possible discontinuance of the Valley Falls station. *Id.* at 3. The Postal Service notes that this notice was furnished to customers well over 60 days before the proposed closing date as required by law. After making a final decision to discontinue the Valley Falls station, the Postal Service announced its decision publicly via a letter to customers dated May 6, 2011. *Id.*

Further, the Postal Service contends that it considered the pertinent criteria of section 404(d), including the effect on postal services, the community and employees, and economic savings gained from the closing. *Id.* at 5. The Postal Service concludes that while there will be a loss of a retail facility in the community, retail services at the Cumberland station will continue to provide effective and regular service. Final Determination at 4.

V. COMMISSION ANALYSIS

Under 39 U.S.C. 404(d)(1), prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. If the Postal Service decides to close the post office, it must make its Final Determination available to the public for 30 days, allowing patrons the opportunity to appeal the determination to the Commission. The Commission reviews the Postal Service's determination to close or consolidate a post

office “on the basis of the record before the Postal Service in the making of such determination.” See 39 U.S.C. 404(d)(5).

A. Notice to Customers

On September 21, 2009, the Postal Service distributed questionnaires to 150 post office boxes notifying customers of the Valley Falls station of a possible change in service. Additional questionnaires were made available over-the-counter at the Valley Falls station. Final Determination at 1; see *also* Administrative Record, Item No. 18. On April 6, 2011, the Postal Service also invited customers to attend a community meeting with postal officials to address any questions or concerns regarding the possible closure. Petition at Attachment 2. On May 6, 2011, the Postal Service notified customers of its decision to close the Valley Falls station on July 8, 2011. *Id.* at Attachment 5.

Petitioner contends that the Postal Service failed to inform customers of their right to appeal. *Id.* at 4. On May 23, 2011, Petitioner filed for review of the closing of the Valley Falls station with the Commission.

The record in this proceeding indicates that customers of the Valley Falls station were afforded notice that the Postal Service was reviewing the Valley Falls station for possible closure. Further, customers were given an opportunity to provide input by returning questionnaires and attending the community meeting.

Notwithstanding this finding, issues raised by Petitioner concerning the staleness of the information relied upon and the timing of the public meeting go to the integrity of the closing process. As the Public Representative notes, “the procedures fell far short of what should be expected.” PR Reply Brief at 8. The Commission hopes that the recent adoption by the Postal Service of uniform closing procedures for all Postal Service-operated retail facilities will greatly reduce these types of concerns going forward, ensure that both interested persons have a meaningful opportunity to participate in the process, and that the Postal Service has a meaningful opportunity to consider and address customers’ concerns.

Petitioner also asserts that the Postal Service acted duplicitously in holding a public meeting on April 6, 2011, approximately 6 weeks after the Final Determination had been executed.²⁵ Petitioner's position is understandable and underscores the need for the Postal Service to ensure the integrity of the closing process, including affording interested persons an opportunity to provide meaningful input. In this case, the Final Determination did not become "final" until May 6, 2011, the date that notice was posted informing customers the Valley Falls station was closing as of July 8, 2011. The Postal Service's representation at the April 6, 2011 meeting that it would take the "public's input into consideration"²⁶ and reach a decision in 30 to 60 days cannot be dismissed entirely as meaningless. On rare occasions, it has shown itself willing to withdraw formally issued final determinations. In this case, that did not happen. Other than the requirement to provide notices of appeal rights which is a matter of dispute for stations and branches, the Commission finds that the Postal Service has satisfied the notice requirements of 39 U.S.C. 404(d) based on a review of the record.

B. Other Statutory Considerations

Under section 404(d)(2)(A), in making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. In considering these factors, the Postal Service usually solicits input from the community by distributing questionnaires to customers and holding a community meeting.

Effect on the community. Petitioner contends that the Postal Service failed to gather adequate input from the public, and the information collected in late 2009 is

²⁵ Petitioner contends that the Postal Service had already formally decided to close the Valley Falls station prior to the April 6, 2011 meeting and that the meeting was a ruse designed to mislead customers. Participant Statement at 11-12.

²⁶ Supplemental Comments, Attachment.

stale. Participant Statement at 6-7. More specifically, Petitioner states that the majority of Valley Falls residents are second generation Portuguese Americans, and that Postal Service failed to consider the community's cultural traditions in making its decision. *Id.* at 8.

The Postal Service initiated its study of the Valley Falls station for discontinuance in June of 2009 as part of its Station and Branch Optimization Initiative.²⁷ The list of these offices was made public in Docket No. N2009-1 and widely distributed. In September 2009, the Postal Service distributed 178 questionnaires to the Valley Falls station customers. The questionnaires were also available over the counter. Seventy-nine were returned. Final Determination at 1; see also Administrative Record, Item No. 18. The Postal Service replied directly to customers returning the questionnaires. See Administrative Record, Item No. 17. In addition, the Postal Service held a public meeting to receive community input.

The Postal Service could have cast a wider net in an effort to receive customer input. Its newly adopted rules are designed to elicit greater input. And it did follow then-established procedures. Moreover, the Postal Service responded via a form letter to concerns raised by customers. It could have addressed certain concerns more completely, *e.g.*, traffic and safety concerns. Each facility reviewed for possible discontinuance presents unique facts, notwithstanding that there are some common themes among all such reviews. The Commission urges the Postal Service to respond more directly to the facts under review.

Effective and regular service. The Postal Service will provide post office box delivery service and retail service at the Cumberland station upon closing the Valley Falls station. The record indicates that there is an adequate amount of post office boxes at the Cumberland station for customers of the Valley Falls station. *Id.*, Item No. 3 at 5.

²⁷ Docket No. N2009-1, Station and Branch Optimization Initiative, Advisory Opinion Concerning the Process for Evaluating Closing Stations and Branches, March 10, 2010 (Station and Branch Optimization Initiative).

Customers raise various concerns regarding the transfer of operations to the Cumberland station, including traffic congestion, safety, and level of service provided. The Postal Service addressed each of these concerns. See Final Determination at 2-4.

The consolidation of operations with the Cumberland station will inconvenience, at least to some degree, the existing 150 post office box customers. Drive time to the Cumberland station from the Valley Falls station is approximately 9 minutes. To the extent post office box customers wish to continue to receive delivery to a post office box, however, they will be able to retain their current mailing address. Administrative Record, Item No. 18 at 1.²⁸

The Postal Service acknowledges that the distance may cause inconvenience for some customers. However, it notes that carrier service is an available option that may be beneficial. Final Determination at 1, 3.

Retail customers may also be inconvenienced.²⁹ The Postal Service notes, however, that two stations are located within 2 miles of the Valley Falls station, including the Lincoln station, located within 1.2 miles, and the Pawtucket post office, located within 1.8 miles. Postal Service Comments at 3.³⁰ It indicates that there are an additional eight post offices, stations and branches, as well as numerous expanded access options within 5 miles of the Valley Falls station. *Id.*; see also Final Determination at 1.

The Commission concludes that regular and effective service will continue to be provided to customers served by the Valley Falls station.

Economic savings and effect on employees. The Postal Service estimates annual savings of \$106,282 from the closure of the Valley Falls station. Final

²⁸ There will be no change in delivery service for customers receiving carrier delivery. *Id.*, Item No. 16 at 1.

²⁹ As an eBay shipper, Mr. Watson discusses the convenience and his frequent use of the Valley Falls station. While the alternative retail facilities are not as conveniently located as the Valley Falls station is to him, perhaps the inconvenience can be eliminated, or at least mitigated, through the use of services such as Carrier Pickup and printing labels with or without postage.

³⁰ Drive time to these facilities from the Valley Falls station is approximately 3 minutes and 6 minutes, respectively.

Determination at 4. It derives this figure by summing the following costs: employee compensation \$56,621; custodial costs \$6,040; inter-station transportation \$9,247; and rent and utilities \$38,402, minus cost of replacement service \$4,028.

The Public Representative contends that the Postal Service's estimate is flawed because it includes: (1) employee compensation costs which the Postal Service has not demonstrated will be saved, and (2) custodial costs, which will not be incurred in the future. PR Reply Brief at 8.

The Public Representative raises a valid point concerning the computation of savings based on compensation costs that are not eliminated by the closure of the Valley Falls station. The Commission has addressed this issue previously. For example, in Docket No. N2009-1, the Commission urged the Postal Service to develop a more holistic approach for estimating the impact of decisions to close retail facilities. Furthermore, in announcing its newly adopted rules governing the closing of postal retail facilities, the Postal Service indicates it will implement a more robust measurement of financial impact. See 76 FR 41418, July 14, 2011. The Commission anticipates that the improved analysis will ensure a more accurate measurement of actual cost savings than is possible now.

The Postal Service indicates that closing the Valley Falls station will cause it to incur a one-time expense of \$93,103, consisting of \$90,603 to buy out the existing lease and \$2,500 for building modifications. Final Determination at 4. The Public Representative states that the buyout figure should be taken into account to estimate savings and, assuming that the figure is correct, the Postal Service's estimated savings may be entirely eliminated in the short run. PR Reply Brief at 10.³¹

The additional one-time costs should be factored into the savings estimate to present a more accurate picture of the financial implications of the decision to close a facility. Doing so reduces the first year savings to a maximum of \$13,179 (\$106,282-\$93,106). If employee compensation and custodial costs are excluded from

³¹ The Public Representative also observes that if the Postal Service paid \$90,603 to buy out the lease, it would have paid approximately \$40,000 more than had it simply let the lease run its course.

the estimated savings, closing the Valley Falls station will increase the Postal Service's first year costs by almost \$50,000 ($\$106,282 - (\$56,621 + \$6,040 + \$93,103) = -\$49,482$). Under this scenario, the payback period would extend beyond 2 years (one-time costs of \$93,103 divided by net estimated savings of \$43,621).³² The record is not complete with regard to the economic impact to the Postal Service. However, the Commission finds that some long-term savings appear likely even if the Postal Service's calculations of savings suggest minimal savings, if any, in the near-term.

VI. CONCLUSION

The record fully supports the conclusion that regular and effective service will continue to be provided to customers served by the Valley Falls station. As discussed above, the Postal Service needs to greatly improve its notice and community involvement procedures and develop more reliable cost savings estimates. Overall, the Commission recommends that the Postal Service devote greater care to the development of the record. The Postal Service's determination to close the Valley Falls station is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

³² The net savings exclude employee compensation and custodial costs totaling \$62,653.